



Revenue Interim Committee

67th Montana Legislature

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TO: Committee Members
FROM: Jaret Coles, Staff Attorney
RE: Administrative Rule Activity
DATE: January 7, 2022

Department of Revenue

Proposal and Adoption Notices are available on the Internet:

Department of Revenue notices can be found on the Secretary of State's website at <http://www.mtrules.org>. Under the Montana Administrative Register heading, type the number "42" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rule:

Electrical Generation and Transmission Facility Exemptions and New Or Expanded Industry Credit for Corporate Income Taxes -- Senate Bill No. 35 (2021) and Senate Bill No. 45 (2021) . MAR 42-1045. No public hearing is contemplated, and the public comment period ends on January 13, 2022. The Department proposes to amend three rules and repeal 12 rules. The general statement of reasonable necessity provides as follows:

The 67th Montana Legislature enacted Senate Bill 35 (SB 35) which, among other things, repealed the electrical generation and transmission facility exemption provided in 15-24-3001, MCA, and the tax computation rollback provided in 15-24-3002, MCA, both of which expired in 2016. Similarly, Senate Bill 45 (SB 45) repealed the new or expanded industry credit for corporate income taxes which the 2019-2020 Revenue Interim Committee determined should be discontinued due to underutilization since its creation in 1975.

Based on the passage of SB 35 and SB 45, the department finds it necessary to propose the amendment and repeal of the above-stated rules to reflect the passage of the legislation. All amendments remove singular statutory references from each rule's implementing authority. The repealed rules reflect SB 45's repeal of the rules' primary authorizing statute: 15-31-127, MCA.

Selective Sales Taxes -- Lodging Facility Sales and Use Taxes and Rental Vehicle Sales and Use Taxes -- House Bill No. 175 (2019), Senate Bill No. 338 (2019), and Senate Bill No. 52 (2021). MAR 42-1043. A public hearing was held on December 13, 2021, and the public comment period ended on December 20, 2021. The Department proposes to amend 13 rules and repeal six rules. The proposed amendments generally implement [Senate Bill No. 52](#), which aligned the definitions for the lodging facility use tax and the sales tax on lodging while also addressing online hosting platforms that offer lodging and rental cars. Amendments include clarification on definitions, the seller's obligation to collect the selective sales taxes, seller registration requirements, the seasonal seller registration process, dealing with combined charges for services that are not part of the sale of accommodations including food, beverage, recreation, or other charges, exemptions from the tax, and the audit process. The repealed sections pertain to items that are no longer applicable under existing law.

Adopted/Amended Rules:

Income Taxes -- Innovative Educational Program Donations to School Districts and Student Scholarship Organizations (SSO) -- House Bill No. 279. MAR 42-1041. Adopted December 14, 2021. The Department adopted one rule and amended two rules. The Department received written comments from two people and revisions were made based on the comments received. The new rule provides a definition for "school district". The first amendment provides the process for receiving preapproval of a tax credit for a contribution to a school district or SSO. The second amendment provides examples of what constitutes a "cash" donation.

Tax Administration -- Debtor Appeals of Department Collections. MAR 42-1039. Adopted December 14, 2021. No public comments were received in support or opposition to the proposed amendments and the Department amended three rules as proposed. The first amendment provides two definitions for Department forms that are used to request informal review or appeal an informal review determination concerning a transfer of debt to the Department for collection pursuant to [Title 17, chapter 4](#), MCA. The second and third amendments incorporate an informal review process which affords a debtor the opportunity to review a state agency debt transfer to the Department and a collection action with a Department employee.

Property Tax -- 2022 Personal Property Depreciation Schedules and Trend Tables and Updated Business Equipment Exemption -- House Bill No. 52 (2021) -- House Bill No. 303 (2021). MAR 42-1038. Adopted November 30, 2021. No public comments were received in support or opposition to the proposed amendments and the Department amended four rules and repealed one rule as proposed.

Two of the amendments update the authority of the web-based Personal Property Depreciation Schedules and Trend Tables publication adopted and incorporated by reference in the rules, to the 2022 version. The publication is updated annually. The 2022 publication reflects changes in personal property and industrial machinery and equipment depreciation and trend factoring data in the Department's valuation manuals and guides since last year.

A third amendment implements changes made to the business equipment tax exemption amount under [House Bill No. 303](#) (2021), which increased the \$100,000 exemption to \$300,000. The amendments cross reference the statutory exemption provided in [15-6-138](#), MCA, instead of providing the exemption

amount. The amendments eliminate the need for future updates to the rule merely for exemption amount changes.

The fourth amendment transfers content from two rules into one. The Department's repeal is based on the transfer of content to other rules. Additionally, part of the repealed rule is obsolete based on the passage of [House Bill 52](#) (2021), which changed the quarterly reporting requirement to annual for all farm implement and construction equipment in a purchase incentive rental program.